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ATTORNEY GENERAL MCGRAW CONTINUES TO MONITOR GASOLINE PRICING

The Attorney General's Consumer Protection and Antitrust Division continues to monitor gasoline prices at both the wholesale and retail levels although an investigation into gasoline pricing practices in West Virginia concluded with no action being taken. Gasoline prices are a constant source of consumer discontent that has generated many complaints to the Consumer Protection Hotline when postings of prices at gasoline stations sometimes fluctuate dramatically.

Attorney General Darrell McGraw began a broad-based, wide-ranging investigation of the gasoline industry in 1994. Major gasoline suppliers, distributors and retailers were served investigatory subpoenas. One enforcement proceeding commenced in Braxton County because a retailer refused to respond to the subpoena. The result of that enforcement proceeding was that oil companies produced documents in compliance with the subpoenas issued. Information from all of the responses to the subpoenas was gathered along with a price survey to provide the basis for an expert opinion on the gasoline industry in West Virginia.

It was found that in southern West Virginia, competition for the supply of gasoline at the wholesale level is marginal at best. In this context, southern West Virginia starts approximately at Parkersburg and moves south, southeast through Monroe County. Other parts of the state have competition that helps keep prices lower. The eastern part of the state near Lewisburg benefits from price competition from two pipelines with terminals in Roanoke and Montvale, Virginia.

According to published information and data gathered by the Attorney General's Office, the Marathon refinery in Catlettsburg, Kentucky, supplies 70 to 75 percent of all gasoline sold in Southern West Virginia. Hence, it has the ability to set prices at a higher level than if it were pricing in a more competitive environment. Distributors noted that it would cost approximately one nickel per gallon to run a tanker truck to the next closest source of supply to compete with the Catlettsburg refinery. An expert hired by the Attorney General's Office concluded that the Catlettsburg refinery was able to price gasoline approximately three to five cents higher than would be expected in a competitive environment.

Even with an expert opinion in hand, the Attorney General's Office did not find any concerted effort to fix or maintain prices to gain a monopoly position in West Virginia by any of the oil companies. Thus, no complaint was filed. In 1995, the U. S. Department of Justice also investigated the gasoline industry in West Virginia and reached a similar conclusion. They also did not file any complaint or bring any enforcement action against any oil company with regard to the West Virginia market.

The market situation in West Virginia has not changed significantly since those investigations were closed in the late 1990's. The Federal Trade Commission launched an investigation into the oil and gasoline industry due to price spikes occurring in the mid-west two years ago, and was assisted by West Virginia and several other states. The FTC issued its report finding that there was no actionable behavior by any of the oil companies investigated. It was clear that the oil companies acted in their own best interests; however, the FTC was unable to discover any collusive behavior or any behavior designed to effect a monopoly.

Although the Attorney General's Office has closed its formal investigation into gasoline pricing, the office continually monitors both wholesale and retail gasoline prices in West Virginia. With the passage of the anti-gouging statute, the Attorney General's Office has a tool at its disposal to keep prices down after there has been a declaration of a state of emergency by the Governor or the Legislature.

Remarkably, West Virginia did not experience any significant price gouging in September, 2001, after the terrorist attacks. Although wholesale gasoline pricing was higher during that time period, retailers in West Virginia did not raise their prices by two to three dollars per gallon as retailers did in other states. In the few cases where stations increased their prices to more than two dollars per gallon, refunds were issued.

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